

AGREEMENT
Between
WENATCHEE VALLEY COLLEGE
And
WENATCHEE VALLEY COLLEGE FOUNDATION, INC.

Effective July 2023

This Agreement entered into by and between Wenatchee Valley College, hereinafter referred to as "College", and Wenatchee Valley College Foundation, Inc. a non-profit corporation, hereinafter referred to as "Foundation".

ARTICLE I. DUTIES

- A. The Foundation, its board of directors, officers and members agree to:
- 1) Design and implement such programs and procedures so as to persuade continuous and special philanthropic support and benefactions to further the purposes of the Foundation for the benefit of the College;
 - 2) Comply with all applicable state and federal laws to remain in good standing. This includes but is not limited to the laws and regulations described in Section 501c (3) of the Internal Revenue Code of 1986 and the laws of the State of Washington applicable to the Foundation. The Foundation shall remain in good standing with federal and state laws and regulations by completing the appropriate filings, including but not limited to IRS Form 990 and Washington Secretary of State Corporations & Charities Division's annual report, charitable organization renewal, and charitable trust renewal.
 - 3) Accept, hold, administer, invest and disburse such funds and properties of any kind or character as from time to time may be given to it by persons or foundations absolutely or in trust, as the case may be; employ and retain agents, experts, consultants, accountants, counselors, advisors and investment advisors for the proper accepting, holding, administering, investing and disbursing of such funds and properties of any kind or character; and in general do all things that may appear necessary and useful in accomplishing these purposes;
 - 4) Use all assets and earnings of the Foundation exclusively for College purposes including the payment of expenses necessarily incident thereto; and no part of such assets and earnings shall benefit any employee, officer or member of the Foundation or any other individual, except in payment of reasonable compensation for services actually rendered or expenses necessarily incurred;
 - 5) To hold and apply the corpus and income of any donation, grant, devise or bequest, or any part thereof in such manner as may have been stipulated or provided in the instrument creating such donation, grant, devise or bequest;
- B. In furthering the purpose of the Foundation as set forth above, the Foundation, acting through its Board of Directors shall:

- 1) Have the authority to sell, mortgage, pledge, lease, hypothecate or exchange all or any part of the real or personal property or funds of the Foundation, unless otherwise specifically provided in the Foundation's creating instrument, at such prices and upon such terms and conditions as the Foundation may deem best; and the Foundation may invest and reinvest Foundation funds independent of the guidelines influencing college investments;
- 2) Have full power and authority to purchase, lease, accept as a gift, bequest or devise, or otherwise acquire any real or personal property to be held, administered, or used in any way for the benefit of the College, or to assist the College in the fulfillment of its educational purposes; and to that end the Foundation shall have full power and authority to hold, own, control, handle, administer or operate any such real or personal property, including the operation of any business connected with or incident to the ownership or control of such property, and to sell, lease, pledge, mortgage, exchange or otherwise dispose of any such property at such prices and upon such terms and conditions as it may deem best;
- 3) Have the authority to borrow money and make and issue bonds, notes, contracts, and other evidence of indebtedness therefore, and by the proper resolution duly adopted by a majority vote of the members of the Foundation Board of Directors, to secure payment thereof by authority provided above;
- 4) Have the authority to engage in and disburse any part of all of its funds, both income and principal, for any and all lawful activities permitted by the laws and regulations governing tax-exempt charitable corporations at that time, and which may be necessary or incidental to the furtherance of the purposes of this Foundation;
- 5) Have the authority to use reasonable portions of its funds and income thereto to pay the administrative expense of the operation of the Foundation;
- 6) Not to change its stated purpose of existence as set forth in Article III of the Articles of Incorporation during the lifetime of the Agreement without first obtaining written consent from the College;
- 7) Tender to the College immediately all donations it may receive wherein the donor names the College as recipient;
- 8) Be responsible for and account for its own records all donations wherein the donor names the Foundation as recipient.

Do all other acts and things as now or hereafter be permitted by law.

ARTICLE II. EXECUTIVE DIRECTOR

- 1) The College shall employ, equip and provide supplies and office space to a person to serve as Executive Director of the Foundation whose responsibility shall be to assist the Foundation in carrying out the purpose of the Foundation as set forth in its Articles of Incorporation and to enable the Foundation to carry out the duties set forth in Article I hereof. The College shall also employ, equip, and provide supplies and office space to a sufficient number of support staff (specified in Article XI) to enable the Foundation to carry out the purpose of the Foundation as set forth in its Articles of Incorporation and to

enable the Foundation to carry out the duties set forth herein. Employment, equipment, supplies, and office space shall be consistent with institutional best practices. Staff assigned to the foundation shall be known as "Foundation staff" hereafter.

- 2) The Executive Director shall act as the direct supervisor for all Foundation staff and keep the Foundation Executive Committee, and the College President (see section VII), apprised of any personnel changes.
- 3) Prior to preparing a job description for the Executive Director, the College shall consult with the Executive Committee of the Foundation.
- 4) To the full extent permitted by law, the Foundation shall be involved in any recruitment efforts to hire an Executive Director, and members of the Board of Directors of the Foundation shall compose the majority of the members of the interview committee that is developed as a part of that recruitment effort. Prior to extending an offer of employment for an Executive Director, the College shall consult with the Executive Committee of the Foundation.
- 5) To the full extent permitted by law, the College will consult with the President of the Foundation or designee prior to terminating the employment of the Executive Director. If such prior consultation is not practical, as soon as possible after such termination the College shall inform the Executive Committee of such termination, and, to the full extent permitted by law the College shall inform the Foundation of the reasons for such termination.
- 6) The College and the Foundation Board of Directors shall mutually coordinate the responsibilities assigned to the Executive Director in alignment with the Foundation's mission, vision, and strategic goals, which shall complement those of the College, so as to fully effectuate the purpose of this Agreement. The Executive Director shall provide regular reports to the College and the Foundation on activities and strategic goals progress.

ARTICLE III. INDEPENDENT CAPACITY

Each party in the performance of this Agreement shall act in an independent capacity and not as an agent or representative of the other party. No assets of the Foundation shall become the property of the College unless and until title to the same shall be formally transferred from the Foundation to the College.

In good faith, the Foundation Board of Directors shall notify the College of changes to the Foundation's Bylaws and/or Articles of Incorporation.

Each party shall be responsible for the actions and inactions of itself and its own officers, employees, and agents acting within the scope of their authority.

ARTICLE IV. ASSIGNABILITY

This Agreement is not assignable by the Foundation or by the College either in whole or in part.

ARTICLE V. MODIFICATION

No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and that no oral understanding or agreement not incorporated herein, and no alterations or variations of the terms hereof unless made in writing between the parties hereto shall be binding on any of the parties hereto.

ARTICLE VI. REVIEW OF SERVICES

- 1) **Annual Report:** The Foundation is a separate entity from the College and shall be periodically audited by a reputable independent accounting firm. The Foundation shall present an annual report to the Board of Trustees, which report shall include a copy of the audited financial statements provided to the Foundation by its independent accountant for the preceding fiscal year (July 1 to June 30), which includes the investments held by the Foundation. The annual report shall also include the Foundation's mission fulfillment, financial support to the College, and accomplishments of the prior year.
- 2) **Coordination of Foundation Activities:** The Foundation shall coordinate major Foundation activities with the President of the College, such that said activities are conducted with the concurrence of the College and jointly in the name of the College and the Foundation where appropriate.
- 3) **Annual Review:** On or before December 15 of each year, the President of the College shall submit a written review to the Foundation setting forth the President's evaluation of the activities of the Foundation for the calendar year concluding December 31 of that year. Said review shall include the President's recommendations, if any, for changes or modifications in the practice of procedures of the Foundation. Said review shall be submitted to the Foundation's Executive Committee for further action or recommendations as it deems appropriate.
- 4) **College Involvement:** Per the Foundation's bylaws, the College President shall serve as an ex-officio member on the Foundation Board of Directors and Executive Committee.

ARTICLE VIII. AGREEMENT REVIEW

There will be an annual review of the agreement between the College and the Foundation to ensure that each party is performing such party's obligation hereunder. This agreement shall renew annually on July 1, unless either party gives notice to the other party prior to March 1 of the terminating year.

ARTICLE IX. GOVERNING LAWS AND DISPUTES

This Agreement shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of the state of Washington. Before instituting any legal action hereunder, a party, through its president, shall meet with the president of the other party and attempt in good faith to resolve the disagreement. Venue of any action hereunder shall be in Chelan County Superior Court.

ARTICLE X. ENTIRE AGREEMENT

This constitutes the entire agreement of the parties, including all oral understandings, on the subject of their general and overall relationship. However, the parties may enter into other stand-alone agreements on specific subjects. All such other agreements shall also be in writing, signed by the parties, and approved as to form by the Attorney General or designee. No alteration or modification of any term of this Agreement shall be valid unless made in writing, signed by the parties, and approved as to form by the Attorney General or designee.

ARTICLE XI. FOUNDATION STAFF

Foundation staff shall act in cooperation with the College faculty and staff and conduct themselves in accordance with the College's operational policies and procedures as determined by the College Board of Trustees.

Wenatchee Valley College agreed to pay the salaries and benefits of the following staff members: 1.0 full-time foundation executive director, 1.0 full-time program manager, and 0.75 full-time communications consultant II.

The Foundation reimburses the College for the salaries and benefits of the 1.0 full-time foundation accountant, 1.0 full-time development director, and 1.0 full-time executive assistant to the executive director.

ARTICLE XII. EFFECT ON PRIOR AGREEMENTS

The 2022-23 agreement, including all articles, addenda, and modifications thereof shall be cancelled and rendered null and void as of the effective date of this agreement.

ARTICLE XIII. EFFECTIVE DATE

The effective date of this agreement shall be July 1, 2023, as voted by the Foundation Board of Directors at their June 26, 2023, meeting.


ARTICLE XIV. TERMINATION

This Agreement shall continue until terminated. It may be terminated by either party only at the end of a State fiscal biennium, upon written notice to the other party given at least ninety (90) days in advance. However this Agreement or a successor overall agreement with the College shall be necessary for the Foundation to operate.

[signature page to follow]

IN WITNESS WHEREOF, this Agreement has been executed by and on behalf of the parties hereto.

WENATCHEE VALLEY COLLEGE



Dr. Faimous Harrison
WVC President

WENATCHEE VALLEY COLLEGE FOUNDATION, INC.



Don Gurnard
Foundation Board President